

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 268

98TH GENERAL ASSEMBLY

0719H.02P

D. ADAM CRUMBLISS, Chief Clerk

## AN ACT

To repeal sections 94.902 and 143.801, RSMo, and to enact in lieu thereof two new sections relating to limitations on income tax credits or refunds.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 94.902 and 143.801, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 94.902 and 143.801, to read as follows:

94.902. 1. The governing [body] **bodies of the following cities may impose a tax as provided in this section:**

(1) Any city of the third classification with more than twenty-six thousand three hundred but less than twenty-six thousand seven hundred inhabitants[, or] ;

(2) Any city of the fourth classification with more than thirty thousand three hundred but fewer than thirty thousand seven hundred inhabitants[, or] ;

(3) Any city of the fourth classification with more than twenty-four thousand eight hundred but fewer than twenty-five thousand inhabitants[,] ;

(4) **Any special charter city with more than twenty-nine thousand but fewer than thirty-two thousand inhabitants; or**

(5) **Any city of the third classification with more than four thousand but fewer than four thousand five hundred inhabitants and located in any county of the first classification with more than two hundred thousand but fewer than two hundred sixty thousand inhabitants.**

2. **The governing body of any city listed in subsection 1 of this section** may impose, by order or ordinance, a sales tax on all retail sales made in the city which are subject to taxation under chapter 144. The tax authorized in this section may be imposed in an amount of up to one-

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 half of one percent, and shall be imposed solely for the purpose of improving the public safety  
19 for such city, including but not limited to expenditures on equipment, city employee salaries and  
20 benefits, and facilities for police, fire and emergency medical providers. The tax authorized in  
21 this section shall be in addition to all other sales taxes imposed by law, and shall be stated  
22 separately from all other charges and taxes. The order or ordinance imposing a sales tax under  
23 this section shall not become effective unless the governing body of the city submits to the voters  
24 residing within the city, at a county or state general, primary, or special election, a proposal to  
25 authorize the governing body of the city to impose a tax under this section.

26 [2.] 3. The ballot of submission for the tax authorized in this section shall be in  
27 substantially the following form:

28 Shall the city of ..... (city's name) impose a citywide sales tax at  
29 a rate of ..... (insert rate of percent) percent for the purpose of improving the public safety of  
30 the city?

31 ☐ YES ☐ NO

32 If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed  
33 to the question, place an "X" in the box opposite "NO".

34

35 If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor  
36 of the proposal, then the ordinance or order and any amendments to the order or ordinance shall  
37 become effective on the first day of the second calendar quarter after the director of revenue  
38 receives notice of the adoption of the sales tax. If a majority of the votes cast on the proposal  
39 by the qualified voters voting thereon are opposed to the proposal, then the tax shall not become  
40 effective unless the proposal is resubmitted under this section to the qualified voters and such  
41 proposal is approved by a majority of the qualified voters voting on the proposal. However, in  
42 no event shall a proposal under this section be submitted to the voters sooner than twelve months  
43 from the date of the last proposal under this section.

44 [3.] 4. Any sales tax imposed under this section shall be administered, collected,  
45 enforced, and operated as required in section 32.087. All sales taxes collected by the director  
46 of the department of revenue under this section on behalf of any city, less one percent for cost  
47 of collection which shall be deposited in the state's general revenue fund after payment of  
48 premiums for surety bonds as provided in section 32.087, shall be deposited in a special trust  
49 fund, which is hereby created in the state treasury, to be known as the "City Public Safety Sales  
50 Tax Trust Fund". The moneys in the trust fund shall not be deemed to be state funds and shall  
51 not be commingled with any funds of the state. The provisions of section 33.080 to the contrary  
52 notwithstanding, money in this fund shall not be transferred and placed to the credit of the  
53 general revenue fund. The director shall keep accurate records of the amount of money in the

54 trust fund and which was collected in each city imposing a sales tax under this section, and the  
55 records shall be open to the inspection of officers of the city and the public. Not later than the  
56 tenth day of each month the director shall distribute all moneys deposited in the trust fund during  
57 the preceding month to the city which levied the tax. Such funds shall be deposited with the city  
58 treasurer of each such city, and all expenditures of funds arising from the trust fund shall be by  
59 an appropriation act to be enacted by the governing body of each such city. Expenditures may  
60 be made from the fund for any functions authorized in the ordinance or order adopted by the  
61 governing body submitting the tax to the voters. If the tax is repealed, all funds remaining in the  
62 special trust fund shall continue to be used solely for the designated purposes. Any funds in the  
63 special trust fund which are not needed for current expenditures shall be invested in the same  
64 manner as other funds are invested. Any interest and moneys earned on such investments shall  
65 be credited to the fund.

66 [4.] 5. The director of the department of revenue may authorize the state treasurer to  
67 make refunds from the amounts in the trust fund and credited to any city for erroneous payments  
68 and overpayments made, and may redeem dishonored checks and drafts deposited to the credit  
69 of such cities. If any city abolishes the tax, the city shall notify the director of the action at least  
70 ninety days before the effective date of the repeal, and the director may order retention in the  
71 trust fund, for a period of one year, of two percent of the amount collected after receipt of such  
72 notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and  
73 drafts deposited to the credit of such accounts. After one year has elapsed after the effective date  
74 of abolition of the tax in such city, the director shall remit the balance in the account to the city  
75 and close the account of that city. The director shall notify each city of each instance of any  
76 amount refunded or any check redeemed from receipts due the city.

77 [5.] 6. The governing body of any city that has adopted the sales tax authorized in this  
78 section may submit the question of repeal of the tax to the voters on any date available for  
79 elections for the city. The ballot of submission shall be in substantially the following form:

80 Shall ..... (insert the name of the city) repeal the sales tax  
81 imposed at a rate of ..... (insert rate of percent) percent for the purpose of improving the public  
82 safety of the city?

83 ☐ YES ☐ NO

84

85 If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become  
86 effective on December thirty-first of the calendar year in which such repeal was approved. If a  
87 majority of the votes cast on the question by the qualified voters voting thereon are opposed to  
88 the repeal, then the sales tax authorized in this section shall remain effective until the question

89 is resubmitted under this section to the qualified voters, and the repeal is approved by a majority  
90 of the qualified voters voting on the question.

91 [6.] 7. Whenever the governing body of any city that has adopted the sales tax authorized  
92 in this section receives a petition, signed by ten percent of the registered voters of the city voting  
93 in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this  
94 section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If  
95 a majority of the votes cast on the question by the qualified voters voting thereon are in favor of  
96 the repeal, that repeal shall become effective on December thirty-first of the calendar year in  
97 which such repeal was approved. If a majority of the votes cast on the question by the qualified  
98 voters voting thereon are opposed to the repeal, then the tax shall remain effective until the  
99 question is resubmitted under this section to the qualified voters and the repeal is approved by  
100 a majority of the qualified voters voting on the question.

101 [7.] 8. Except as modified in this section, all provisions of sections 32.085 and 32.087  
102 shall apply to the tax imposed under this section.

143.801. 1. A claim for credit or refund of an overpayment of any tax imposed by  
2 sections 143.011 to 143.996 shall be filed by the taxpayer within three years from the time the  
3 return was filed or two years from the time the tax was paid, whichever of such periods expires  
4 the later; or if no return was filed by the taxpayer, within two years from the time the tax was  
5 paid. No credit or refund shall be allowed or made after the expiration of the period of limitation  
6 prescribed in this subsection for the filing of a claim for credit or refund, unless a claim for credit  
7 or refund is filed by the taxpayer within such period.

8 2. If the claim is filed by the taxpayer during the three-year period prescribed in  
9 subsection 1 **of this section**, the amount of the credit or refund shall not exceed the portion of  
10 the tax paid within the three years immediately preceding the filing of the claim plus the period  
11 of any extension of time for filing the return. If the claim is not filed within such three-year  
12 period, but is filed within the two-year period, the amount of the credit or refund shall not exceed  
13 the portion of the tax paid during the two years immediately preceding the filing of the claim.  
14 If no claim is filed, the credit or refund shall not exceed the amount which would be allowable  
15 under either of the preceding sentences, as the case may be, if a claim was filed on the date the  
16 credit or refund is allowed.

17 3. If pursuant to subsection 6 of section 143.711 an agreement for an extension of the  
18 period for assessment of income taxes is made within the period prescribed in subsection 1 of  
19 this section for the filing of a claim for credit or refund, the period for filing a claim for credit  
20 or for making a credit or refund if no claim is filed, shall not expire prior to six months after the  
21 expiration of the period within which an assessment may be made pursuant to the agreement or  
22 any extension thereof. The amount of such credit or refund shall not exceed the portion of the

23 tax paid after the execution of the agreement and before the filing of the claim or the making of  
24 the credit or refund, as the case may be, plus the portion of the tax paid within the period which  
25 would be applicable under subsection 1 of this section if a claim had been filed on the date the  
26 agreement was executed.

27 4. If a taxpayer is required by section 143.601 to report a change or correction in federal  
28 taxable income reported on his federal income tax return, or to report a change or correction  
29 which is treated in the same manner as if it were an overpayment for federal income tax  
30 purposes, an amended return or a claim for credit or refund of any resulting overpayment of tax  
31 shall be filed by the taxpayer within one year from the time the notice of such change or  
32 correction or such amended return was required to be filed with the director of revenue. If the  
33 report or amended return required by section 143.601 is not filed within the ninety-day period  
34 therein specified, interest on any resulting refund or credit shall cease to accrue after such  
35 ninetieth day. The amount of such credit or refund shall not exceed the amount of the reduction  
36 in tax attributable to:

37 (1) The issues on which such federal change or correction or the items amended on the  
38 taxpayer's amended federal income tax return are based[,] ; and

39 (2) Any change in the amount of [his] **the taxpayer's** federal income tax deduction  
40 under the provisions of subsection 1 of section 143.171. No effect shall be given in the  
41 preceding sentence to any federal change or correction or to any item on an amended return  
42 unless it is timely under the applicable federal period of limitations. The time and amount  
43 provisions of this subsection shall be in lieu of any other provisions of this section. This  
44 subsection shall not affect the time within which or the amount for which a claim for credit or  
45 refund may be filed apart from this subsection.

46 5. If the claim for credit or refund relates to an overpayment of tax on account of the  
47 deductibility by the taxpayer of a debt as a debt which became worthless or a loss from  
48 worthlessness of a security or the effect that the deductibility of a debt or of a loss has on the  
49 application to the taxpayer of a carryover, the claim may be made, under regulations prescribed  
50 by the director of revenue within seven years from the date prescribed by law for filing the return  
51 for the year with respect to which the claim is made.

52 6. If the claim for credit or refund relates to an overpayment attributable to a net  
53 operating loss carryback or a capital loss carryback, in lieu of the three-year period of limitations  
54 prescribed in subsection 1 of this section, the period shall be that period which ends with the  
55 expiration of the fifteenth day of the fortieth month (or the thirty-ninth month, in the case of a  
56 corporation) following the end of the taxable year of the net operating loss or net capital loss  
57 which results in such carryback, or the period prescribed in subsection 3 of this section in respect  
58 of such taxable year, whichever expires later. In the case of such a claim, the amount of the

59 credit or refund may exceed the portion of the tax paid within the period provided in subsections  
60 2, 3 and 4 of this section, whichever is applicable, to the extent of the amount of the overpayment  
61 attributable to such carryback.

62 **7. (1) No period of limitations provided in subsections 1 to 6 of this section shall**  
63 **apply if a taxpayer amends, or the federal Internal Revenue Service or its successor agency**  
64 **changes the taxpayer's federal income tax return for the same tax period and:**

65 **(a) Such amendment or change occurs after any period of limitations provided in**  
66 **subsections 1 to 6 of this section has expired;**

67 **(b) Such amendment or change reveals that the taxpayer is eligible to claim a credit**  
68 **or refund of an overpayment of any tax imposed under this chapter; and**

69 **(c) A period of limitations provided in subsections 1 to 6 of this section prohibits**  
70 **the taxpayer from claiming such credit or refund.**

71 **(2) If the taxpayer files a claim for such credit or refund, the claim shall be filed in**  
72 **the manner provided in this chapter and shall be filed within one year from the time the**  
73 **taxpayer amends or the federal Internal Revenue Service changes the taxpayer's federal**  
74 **income tax return.**

75

✓